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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,467	09/17/2001	Henry J. Riblet	81451CIP	9032

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n N .

09/955,467

Applicant(s)

RIBLET, HENRY J.

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the corresp ndence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11,20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-11 is/are allowed.
- 6) ☒ Claim(s) 1-4,20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 11 December 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the second Office Action for serial number 09/955,467, Improved Bracket Assembly Lock, filed on September 17, 2001. Claims 1-11, 20, and 21 are pending.

#### ***Claim Objections***

Claim 3 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 3 does not further limit the subject matter of claim 1.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,970,277 to Riblet in view of U.S. Patent 4,597,471 to Anderson and further in view of U.S. Patent 878,455 to Carter. Regarding claims 1-4, Riblet discloses a lock (11) comprising: an upright (U1) having a first surface (U1), a pair of side members (24, 25) pivotally coupled to an angle bracket (10) by a fulcrum bar (32); an inner jaw (27) and outer jaw (26) coupled to the side members (24, 25); wherein the inner jaw (27) is mounted beneath the plane defined by the fulcrum bar and an outer jaw (26). Riblet does not disclose one of the inner or outer jaws having a substantially flat contact surface adapted to contact the first surface of the upright (U1)

over a planar region. Anderson discloses an apparatus for mounting on an upright (84) comprising an outer jaw having various contact surfaces (82, 158, 208, 280, 284, 290), which further include a flat contact surface (130) adapted to contact the upright over a planar region. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the surface of one of the inner and outer jaws to be flat as an alternative means for gripping the upright as taught by Anderson (col. 6, lines 17 ff.). Riblet in view of Anderson discloses the lock as applied above but does not disclose one or both of the inner and outer jaws being capable of pivoting relative to the side members. Carter discloses an apparatus (Fig. 1) for mounting on an upright (5) having an outer jaw (15) pivotally mounted on a bar (14) coupled to a pair of side members (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified one or both of the inner and outer jaws to be pivotally mounted to the side members by a bar because one would have been motivated to permit a rolling surface to provide a greater degree of frictional gripping action as taught by Carter (lines 60-64). Regarding claims 20 and 21, Riblet in view of Anderson in view of Carter does not disclose the upright being formed of metal or fiberglass. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the combination by forming the upright of various materials including metal and fiberglass since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as is well known in the art.

***Allowabl Subject Matter***

Claims 5-11 are allowed.

The following is an examiner's statement of reasons for allowance: Regarding claim 5, although the prior art of record discloses many of the limitations of the claims, it fails to further teach or suggest the combination as claimed wherein the upright includes surface irregularities and the surface irregularities of one of the inner and outer jaw are sized and shaped to matingly engage the surface irregularities of the upright.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

Applicant's arguments regarding claims 1-4, 20, and 21 have been fully considered but they are not persuasive.

Regarding applicant's argument that the square-shaped jaw (208) of Anderson is fixedly mounted and thus only adapted to contact the upright over a linear region, examiner respectfully disagrees. The combination of Riblet, Anderson, and Carter as set forth in the rejection above provides a pivotal jaw having a flat contact surface adapted to contact the upright over a planar region.

In response to applicant's argument that Anderson and Carter "fail to recognize and/or solve the specific problem which applicant's claimed invention recognizes and

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solves", the fact that applicant has recognized another advantage (i.e. a jaw which does not bite into the upright) which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).


### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: 2002/0179371 to Riblet discloses a lock assembly relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 872-9327 (After Final amendment/communication).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.

  
Naschica S. Morrison  
Patent Examiner  
Art Unit 3632  
2/21/03

  
ANITA KING  
PRIMARY EXAMINER